



Legislative Department
Seattle City Council
Memorandum

Date: April 2, 2010

To: Councilmember Sally J. Clark, Chair
Councilmember Tim Burgess, Vice Chair
Councilmember Sally Bagshaw, Member
Committee on the Built Environment (COBE)

From: Rebecca Herzfeld and Michael Jenkins, Council Central Staff

Subject: April 2, 2010 Special COBE Meeting: Updates to Multifamily Zones

To continue the review of regulations for Lowrise (LR) multifamily zones, we are requesting direction from the Committee on floor area ratio (FAR) and density limits, which were first discussed at your meeting on March 25, and three additional topics:

1. Floor Area Ratio (FAR) and density limits in LR zones, including reuse of existing structures
2. Residential amenity requirements (aka open space requirements)
3. Green Factor landscaping requirements
4. Unit lot subdivisions

Before starting the discussion, we would like to check in on the schedule for completing the Lowrise zone update. Table 1 summarizes the current schedule. We are now at step 4.

Table 1: Proposed Schedule for Council Review of Lowrise Multifamily Code Update

	Action	Date (all in 2010)
1.	COBE provides direction to staff on proposed approach.	February 3
2.	First briefing of Planning Commission on proposed approach.	February 9
3.	Special COBE meeting on Lowrise zoning proposals	March 20 (Saturday)
4.	COBE discusses and gives direction on issues identified on February 3.	February 24, March 10 and 24, and April 2
5.	Publish draft Phase 2 legislation, notice of COBE public hearing, and the environmental review (SEPA) determination.	April 19
6.	End of SEPA appeal period.	May 10
7.	Public hearing at COBE on Phase 2 legislation.	May 19 or 20
8.	Introduce revised Phase 2 legislation based on public comment.	May 27
9.	COBE review of Phase 2 legislation.	June 9 and 23, and July 14
10.	COBE votes on Phase 2 legislation.	June 23 or July 14
11.	Council vote on Phase 2 legislation.	June 28 or July 19

1A. Floor Area Ratio (FAR) and Density Limits in LR zones

At the special meeting of COBE on March 25, the Committee began to discuss FAR and density limits. As you recall, FAR limits control the number of square feet that can be built on a lot, and density limits control the number of housing units that can be constructed. Both limits are calculated based on the size of the lot. We recommend that both types of regulation be used in LR zones, but in a new way. Our proposal is to apply FAR and density limits based on housing type, positive design features, and location inside or outside of designated growth areas (urban centers, urban villages, and station area overlay districts). Table 1 summarizes the proposed FAR and density limit by housing type and location.

This approach provides an opportunity to encourage or discourage certain housing types depending on the zone.

- Rowhouses would not have a density limit, which should help them be more competitive with townhouses. In practice, rowhouse density is limited by the width of the lot and the practical width of the individual rowhouse structure (usually between 15 and 20 feet).
- Autocourt townhouse density is proposed to be one unit less than the density allowed for rowhouses and other townhouses, to encourage the latter housing types.
- Apartments and townhouses that provide desirable design features would not have density limits outside of LR1 zones, and would qualify for greater FAR.

Table 1: Proposed FAR and Density Limits for Lowrise Zones

	Growth Areas	Cottage Housing		Rowhouse		Townhouse ⁽³⁾		Apartment	
		Density ⁽¹⁾	FAR	Density	FAR ⁽²⁾	Density	FAR	Density ⁽⁴⁾	FAR
LR1	Not Applicable	1/1,600	1.1	No limit	1.1 or 1.2	1/2,200 or 1/1,600	1.0 or 1.1	1/2,000 (duplexes and triplexes only)	1.0 (duplex and triplex only)
LR2	Outside	1/1,600	1.1	No limit	1.1 or 1.2	1/1,600 or No limit	1.1 or 1.2	1/1,200	1.2
	Inside	1/1,600	1.1	No limit	1.2 or 1.3	1/1,600 or No limit	1.1 or 1.2	1/1,200	1.2 or 1.3 ⁽⁵⁾
LR3	Outside	1/1,600	1.1	No limit	1.3 or 1.4	1/1,600 or No limit	1.2 or 1.3	1/800	1.4 or 1.5 ⁽⁵⁾
	Inside	1/1,600	1.1	No limit	1.3 or 1.4	1/1,600 or No limit	1.3 or 1.4	1/800	1.5 or 2.0 ⁽⁶⁾

⁽¹⁾ Carriage house units above garages at the back of the lot would not count toward the density limit.

⁽²⁾ FAR may be increased by .1 for a rowhouse development that includes **accessory dwelling units**.

⁽³⁾ FAR may be increased by .1, and density limits are increased in LR1 or do not apply in LR2 and LR3 zones, for townhouse developments that provide **specified design features**.

⁽⁴⁾ Apartments that provide **specified design features** are not subject to a density limit.

⁽⁵⁾ FAR may be increased by .1 for an apartment that provides **specified design features**.

⁽⁶⁾ FAR may be increased by .5 for an apartment that provides **specified design features**.

1B. Features required for FAR or density increase

Our recommendation is to allow an increase in FAR and density for three important features that lead to good design outcomes. The first such feature is to **enclose all parking in a structure that is below grade or partially below grade**. There would also be an option for rowhouses and townhouse developments to locate parking at the rear of the lot off of an alley. Putting the parking below grade provides the opportunity for more landscaped ground-level open space and provides more flexibility to site buildings to respond to local conditions.

The second design feature that would be required for greater FAR and density is an **increase in the amount of residential amenity area**. While the exact amount of the increase would vary by zone and lot size, it would be approximately 50% more than the regular requirement. Since at least half of the amenity area has to be provided at ground level, the result would be a larger usable open space that would benefit residents and, depending on its location, also provide visual interest for the public.

The third required feature to gain increased density and FAR would be to **meet green building performance standards**. We recommend that developers either meet the Leadership in Energy and Environmental Design (LEED) Silver rating or the Built Green 4-star rating of the Master Builders Association of King and Snohomish Counties. Developers of low-income housing also would have the option of complying with the Washington Evergreen Sustainable Development Standards (ESDS), which is also required to obtain state and local funding.

Together, these features would help mitigate potential impacts from increased FAR and density. Note that departures from the requirements for these features would not be allowed through the design review process, since FAR cannot be varied through design review. If a developer could not provide these features, the option is still there to build to the lower FAR and density limits, which are approximately the same as what can be built today.

1C. Reuse of existing single family homes

At the COBE meeting on March 20, several people commented that saving existing single family buildings in multifamily zones can help preserve neighborhood character and add to the variety of unit types. As a result, Councilmembers have asked us to look at ways to encourage the reuse of existing single family structures.

The proposal that DPD submitted to Council in 2009 addressed this issue. The DPD Director's Report stated that "allowing existing structures to be incorporated into new development can have a positive effect on neighborhood character as well as environmental benefits (reuse of existing structures and less demolition material going to landfills)." We recommend adopting DPD's original proposal, which would exempt existing single family structures from certain development standards, including FAR, residential amenity area, and density limits.

We recommend that an existing single family structure be defined as one that was established by permit prior to 1982, which was the time that the new Land Use Code (Title 23) began to apply to multifamily zones. The proposed code amendments below would implement this policy direction in the sections on FAR and density limits.

Because exempting an existing house from FAR limits could increase the development potential on a lot by 25 percent or more, we are also proposing two conditions for getting the exemption. The first is that the house be located between any new principal structure and a street lot line. This condition would ensure that the house is visible from the street and meets the goal of providing visual interest and variety. The second condition is that the applicant applies for landmark designation for the house. If the house is eligible for landmark status, this would help preserve the structure. If it is not, the FAR exemption would still apply.

The proposed amendments to the Land Use Code for FAR and density limits would read as follows, with new wording shown underlined and deleted text ~~crossed out~~. For the section on FAR, the wording for the Lowrise zones is shown added to the recently adopted FAR code section for Midrise (MR) and Highrise (HR) zones. For density limits, the changes are shown to the current section that regulates density in LR zones, which would be renumbered.

23.45.510 Floor area ratio (FAR) in ~~Midrise and Highrise~~ Zones

A. General Provisions

1. All gross floor area not exempt under subsection 23.45.510.~~BD~~ counts toward the maximum gross floor area allowed under the FAR limits.

2. The applicable FAR limit applies to all structures on the lot, subject to subsection 23.45.510.A.3.

3. When a lot is in more than one zone, the FAR limit for the entire lot is the sum of the limits that would apply to the portion of the lot located in each zone, but the floor area on the portion of the lot with the lower FAR limit may not exceed the amount that would be permitted if it were a separate lot.

B. FAR limits in LR zones

1. Floor area ratio limits apply to all structures and lots in LR zones as shown in Table A for 23.45.510.

Table A for 23.45.510 Floor Area Ratios in Lowrise Zones

<u>Zone</u>	<u>Location</u>	<u>Housing Type</u>			
		<u>Cottage Housing</u>	<u>Rowhouse</u>	<u>Townhouse</u>	<u>Apartment</u>
<u>LR1</u>	<u>Not Applicable</u>	<u>1.1</u>	<u>1.1 or 1.2⁽¹⁾</u>	<u>1.0 or 1.1⁽²⁾</u>	<u>1.0</u>
<u>LR2</u>	<u>Outside</u>	<u>1.1</u>	<u>1.1 or 1.2⁽¹⁾</u>	<u>1.1 or 1.2⁽²⁾</u>	<u>1.2</u>
	<u>Inside</u>	<u>1.1</u>	<u>1.2 or 1.3⁽¹⁾</u>	<u>1.1 or 1.2⁽²⁾</u>	<u>1.2 or 1.3⁽³⁾</u>
<u>LR3</u>	<u>Outside</u>	<u>1.1</u>	<u>1.3 or 1.4⁽¹⁾</u>	<u>1.2 or 1.3⁽²⁾</u>	<u>1.4 or 1.5⁽³⁾</u>
	<u>Inside</u>	<u>1.1</u>	<u>1.3 or 1.4⁽¹⁾</u>	<u>1.3 or 1.4⁽²⁾</u>	<u>1.5 or 2.0⁽⁴⁾</u>
⁽¹⁾ FAR may be increased by .1 for a rowhouse development that includes one or more accessory units. ⁽²⁾ FAR may be increased by .1 for a townhouse development that meets the standards of subsections 23.45.510.B.2 below. ⁽³⁾ FAR may be increased by .1 for an apartment that meets the standards of subsection 23.45.510.B.2 below. ⁽⁴⁾ FAR may be increased by .5 for an apartment that meets the standards of subsection 23.45.510.B.2 below.					

2. In order to qualify for an FAR increase as shown in Table A for 23.45.510, the following standards shall be met:

a. Applicants for all housing types shall make a commitment that the structure will meet green building performance standards by earning a Leadership in Energy and Environmental Design (LEED) Silver rating or a Built Green 4-star rating of the Master Builders Association of King and Snohomish Counties, except that an applicant who is applying for funding from the Washington State Housing Trust Fund and/or the Seattle Office of Housing to develop new affordable housing, as defined in subsection 23.45.526.D, may elect to meet green building performance standards by meeting the Washington Evergreen Sustainable Development Standards (ESDS), all according to the standards of Section 23.45.526.

b. A minimum of 50 percent of the required residential amenity area is provided as common residential amenity area at ground level or on a structure that is partially above grade and exempted from FAR under subsection 23.45.510.D.1.

c. Parking shall be located in an enclosed area below grade or partially below grade, except that for townhouses and rowhouses, parking may also be located in a common parking area at the rear of the lot that is accessed from an alley.

CB. FAR limits in MR and HR zones

1. ~~Floor area ratio (FAR)~~ limits apply to all structures and lots in Midrise and Highrise zones as shown in Table ~~A~~**B** for 23.45.510.

Table A B for 23.45.510: Floor Area Ratios in MR and HR zones

	MR	HR
Base FAR	3.2	8.0 on lots 15,000 square feet or less in size; 7.0 on lots larger than 15,000 square feet
Maximum FAR, allowed pursuant to Chapter 23.58A and Section 23.45.516	4.25	13 for structures 240' or less in height; 14 for structures over 240'

BD. The following floor area is exempt from FAR limits:

1. All stories or portions of a story that extend no more than 4 feet above existing or finished grade whichever is lower. See Exhibit A for 23.45.510.

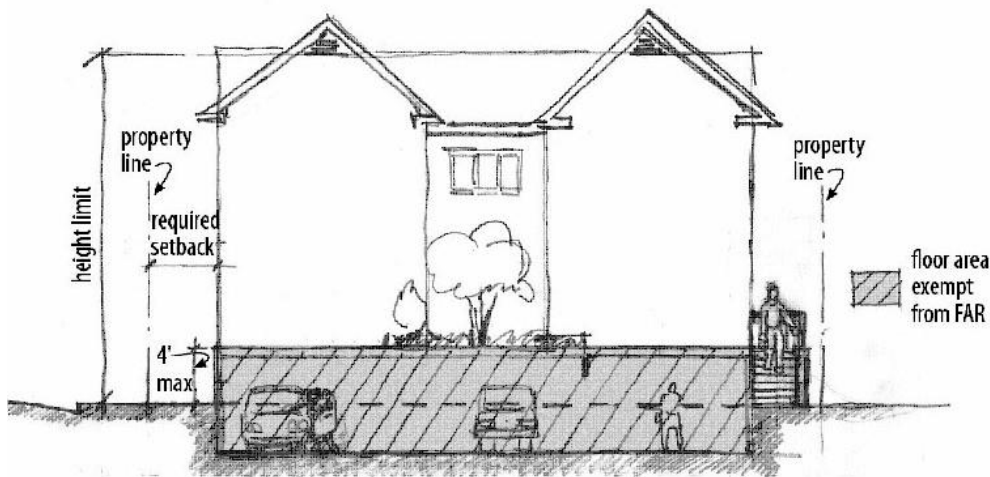


Exhibit A for 23.45.510: Area Exempt from FAR

2. The floor area contained in a designated Seattle landmark subject to controls and incentives imposed by a designating ordinance, when the owner of the landmark has executed and recorded an agreement acceptable in form and content to the Landmarks Preservation Board, providing for the restoration and maintenance of the historically significant features of the structure, except that this exemption does not apply to a lot from which a transfer of development potential has been made under Chapter 23.58A, and does not apply for purposes of determining TDP available for transfer under Chapter 23.58A.

3. Structures built prior to 1982 as single family structure that will remain in residential use, provided that the single family structure is located between any new principal structure and a street lot line, and that the applicant applies for landmark designation for the structure according to Chapter 25.12.

43. Enclosed common residential amenity space in Highrise zones.

54. As an allowance for mechanical equipment, in any structure more than 85 feet in height, 3.5 percent of the gross floor area that is not exempt under subsections ~~BD~~.1 through ~~BD~~.3 of this Section 23.45.510.

65. In HR zones, ground floor commercial uses meeting the requirements of Section 23.45.532, if the street level of the structure containing the exempt space has a minimum floor to floor height of 13 feet and a minimum depth of 15 feet.

~~EE~~. If TDP is transferred from a lot pursuant to Section 23.58A.018, the amount of non-exempt floor area that may be permitted is the applicable base FAR, plus any net amount of TDP previously transferred to the lot, minus the sum of the existing non-exempt floor area on the lot and the amount of TDP transferred.

23.45.008512 – Density limits in LR zones

A. There shall be a minimum lot area per dwelling unit in LR zones for cottage housing, townhouses, and apartments, except as provided in subsections B, C, D, E, and F of this ~~s~~Section 23.45.512, as follows shown on Table A for 23.45.512:

Lowrise Duplex/Triplex	One (1) dwelling unit per two thousand (2,000) square feet of lot area.
Lowrise 1	One (1) dwelling unit per one thousand six hundred (1,600) square feet of lot area.
Lowrise 2	One (1) dwelling unit per one thousand two hundred (1,200) square feet of lot area.
Lowrise 3	One (1) dwelling unit per eight hundred (800) square feet of lot area.
Lowrise 4	One (1) dwelling unit per six hundred (600) square feet of lot area.

Table A for 23.45.510 Density Limits in Lowrise Zones

<u>Zone</u>	<u>Units allowed per square foot of lot area by Housing Type</u>			
	<u>Cottage Housing</u>	<u>Rowhouse</u>	<u>Townhouse</u> ⁽¹⁾	<u>Apartment</u> ⁽²⁾
<u>LR1</u>	<u>1/1,600</u>	<u>No limit</u>	<u>1/2,200 or 1/1,600</u>	<u>1/2,000</u> <u>Duplexes and triplexes only</u>
<u>LR2</u>	<u>1/1,600</u>	<u>No limit</u>	<u>1/1,600 or No limit</u>	<u>1/1,200 or No limit</u>
<u>LR3</u>	<u>1/1,600</u>	<u>No limit</u>	<u>1/1,600 or No limit</u>	<u>1/800 or No limit</u>

⁽¹⁾ For townhouse developments, more density limit is permitted in LR1 zones, and the density limit shown does not apply in LR2 and LR3 zones, when the standards of subsection 23.45.510.B.2 below are met.

⁽²⁾ The density limit shown for LR2 and LR3 zones does not apply to apartments that meet the standards of subsection 23.45.510.B.2 below.

B. Density exception for certain types of low-income multifamily housing

1. In ~~LR~~Rowrise-3 and Lowrise-4 zones, low-income disabled multifamily ~~structures uses~~, low-income elderly multifamily ~~structures uses~~ and low-income elderly/low-income disabled multifamily ~~structures uses~~, operated by a public agency or a private nonprofit corporation, shall have a maximum density of one as follows:

~~LR~~Rowrise-3 — ~~One (1) of dwelling unit per five hundred fifty (550) square feet of lot area.~~

~~Lowrise-4~~ — ~~One (1) dwelling unit per four hundred (400) square feet of lot area.~~

2. In order to qualify for the density provisions of this subsection 23.45.512.B, a majority of the dwelling units of the structure shall be designed for and dedicated to tenancies of at least three ~~(3)~~ months.

3. The dwelling units shall remain as a low-income disabled multifamily ~~structure~~ use, low-income elderly multifamily ~~structure~~ use, or low-income elderly/low-income disabled multifamily ~~structure~~ use for the life of the structure.

C. ~~In the Lowrise Duplex/Triplex zone, the minimum lot area per dwelling unit for cottage housing developments shall be one (1) dwelling unit per one thousand six hundred (1,600) square feet of lot area. In Lowrise Duplex/Triplex and Lowrise LR1 zones, the minimum lot area for cottage housing developments shall be six thousand four hundred (6,400) square feet. Carriage house units associated with the cottage housing are exempt from the density limit set in Table A for 23.45.512.~~

D. In ~~Lowrise Duplex/Triplex LR1~~ zones no structure shall contain more than three ~~(3)~~ dwelling units, except as permitted in subsections E and F.

E. Dwelling units in structures built prior to 1982 as single family residences that will remain in residential use are exempt from density limits and subsection 23.45.512.D.

~~E. F.~~ When dedication of right-of-way is required, permitted density shall be calculated before the dedication is made.

~~F. G.~~ Adding Units to Existing Structures ~~in Multifamily zones.~~

1. ~~In all multifamily zones, one~~ One additional dwelling unit may be added to an existing multifamily structure regardless of the density restrictions in subsections 23.34.008512.A, B, C, and D above, and regardless of the ~~open-space~~ residential amenity requirements in Section 23.45.016522. An additional unit is allowed only if the proposed additional unit is to be located entirely within an existing structure and no additional floor area has been proposed to be added to the existing structure.

2. For the purposes of this subsection 23.45.512.F "existing structures" are those structures or portions of structures that were established under permit, or for which a permit has been granted and the permit has not expired October 31, 2001.

Committee direction on FAR and density limits:

2. Residential amenity requirements

Currently, the Land Use Code sets different open space requirements for apartments and units such as townhouses that are defined as “ground-related housing”. Apartments either require an average of 300 square feet per unit in Lowrise Duplex Triplex (LDT) and Lowrise 1 (L1) zones, or an area equivalent to 30 percent of the lot area in L2 zones or 25 percent in L3 and L4 zones. In L3 and L4 zones, up to one third of the required open space may be provided above grade in private balconies and decks, or in common rooftop areas, if the total amount of open space is increased by 5%, to 30% of lot area. In other Lowrise zones, all required open space must be located at ground level.

For townhouses, the open space standards require an average of 300 square feet of private, usable open space for each unit. At least 200 square feet must be directly accessible from each unit, and open space must have a minimum dimension of 10 feet. However, these requirements often result in spaces that have awkward shapes or are squeezed into corners. Photograph 1 below illustrates this situation.

Photograph 1: Example of Private usable open space provided under current Code requirements



The original concept behind these private open space areas was to provide a townhouse occupant with a back yard like those found in traditional single family development. However, this has created numerous problems. When located adjacent to a street, the private open spaces almost always include a 6 foot solid fence that creates a wall between the sidewalk and the unit.

While such fencing may provide an additional sense of security for the owners, it can also degrade the visual quality of the street. In some cases, such fencing can make for less-safe streets, as building occupants cannot see who is walking by on the sidewalk outside. In general, a solid fence is not a positive contribution to the streetscape, and the resulting spaces are often referred to as “cattle pens” due to the confinement of the open space within the fencing. The following two photographs illustrate the effects of the fencing.

Photograph 2: Example of solid six-foot-tall fencing in front of townhouses



Photograph 3: An example of the effect of continuous fencing



In contrast, the goal of the proposed residential amenity requirements is to provide outdoor space for residents that is usable, comfortable, and well landscaped. *Private* amenity spaces would not be required, since such spaces are often too small to be successful. Some of the amenity space would be allowed to be above the ground, in the form of private space such as balconies, or common areas such as rooftop decks. This flexibility would allow developers to tailor the type of amenity space to the expected market and the type of housing.

The proposed requirements are based on the square footage of the building for structures that do not use the option of higher FAR and/or density. The larger the building, the more amenity area is required. For structures that do take advantage of the higher FAR or density limits, the amenity area would be calculated based on the number of units in the building. Cottage housing, which is defined as units built around a common courtyard, would be regulated in its own code section. Table 2 below summarizes the proposed amenity area requirements for the other housing types.

Table 2: Proposed residential amenity area requirements in Lowrise Zones

Zone	FAR & Density Standards	Housing Type		
		Rowhouse	Townhouse	Apartment
LR1	Not Applicable	10% of GFA* of structure in residential use	10% of GFA* of structure in residential use	10% of GFA* of structure in residential use
LR2	Regular FAR and Density	10% of GFA* of structure in residential use	10% of GFA* of structure in residential use	10% of GFA* of structure in residential use
	Higher FAR and/or density permitted	200 square feet of residential amenity area per unit	200 square feet of residential amenity area per unit	200 square feet of residential amenity area per unit
LR3	Regular FAR and Density	10% of GFA* of structure in residential use	10% of GFA* of structure in residential use	10% of GFA* of structure in residential use
	Higher FAR and/or density permitted—outside growth areas	150 square feet of residential amenity area per unit	150 square feet of residential amenity area per unit	150 square feet of residential amenity area per unit
	Higher FAR and/or density permitted—inside growth areas	120 square feet of residential amenity area per unit	120 square feet of residential amenity area per unit	120 square feet of residential amenity area per unit

*GFA= Gross Floor Area

The proposed amendments to the Section for residential amenity area requirements for MR and HR zones would read as follows, with new wording shown underlined and deleted text ~~crossed out~~. The current open space requirements for Lowrise zones (Section 23.45.016) would be deleted completely and is not shown.

Section 23.45.522 Residential amenity areas ~~in midrise and highrise zones~~

A. Residential amenity areas, including but not limited to decks, balconies, terraces, roof gardens, plazas, courtyards, play areas, or sport courts, are required ~~in an amount equal to 5 percent of the total gross floor area of a structure in residential use, except as otherwise provided in~~ according to the provisions of this Chapter Section 23.45.522.

B. Residential amenity area requirements for rowhouses or townhouses in LR zones

1. The required amount of residential amenity area for rowhouses and townhouses in LR zones is equal to 10 percent of the total gross floor area of a structure in residential use.

2. For rowhouse and townhouse developments that gain additional FAR and density as permitted under the provisions of Sections 23.45.510 and 23.45.512, a minimum of 50 percent of the required residential amenity area shall be provided at ground level, except that common residential amenity area may be provided on the roof of a portion of the structure that is

partially above grade and no more than four feet above grade from a common point of access on the lot.

C. Residential amenity area for apartments in Lowrise zones

1. The required amount of residential amenity area for apartments in LR zones is equal to 10 percent of the total gross floor area of a structure in residential use, except as provided in subsection 23.49.522.C.2.

2. For apartment developments that gain additional FAR and density as permitted under the provisions of Sections 23.45.510 and 23.45.512, the minimum required amount of residential amenity area is established on Table A for 23.49.522:

Table A for 23.49.522: Residential amenity area for apartments in LR zones		
Zone	Location in an Urban Village, Urban Center or Station Area Overlay District	Required residential amenity area for apartments that gain additional FAR and density permitted by Sections 23.45.510 and 23.45.512
LR2	Not Applicable	200 square feet of residential amenity area per unit
LR3	Outside	150 square feet of residential amenity area per unit
	Inside	120 square feet of residential amenity area per unit

3. A minimum of 50 percent of the open space required by Table A for 23.49.522 shall be provided as common residential amenity area at ground level, except that common residential amenity area may also be provided on the roof of a portion of the structure that is partially above grade and no more than four feet above grade from a common point of access point on the lot.

D. The minimum required amount of residential amenity area required in MR and HR zones is equal to 5 percent of the total gross floor area of a structure in residential use.

~~((B))~~E. Required ~~All required~~ residential amenity areas shall meet the following conditions:

1. All residents shall have access to at least one common or private residential amenity area;

2. In LR zones, residential amenity areas may not be enclosed within a structure. In MR and HR zones, No more than 50 percent of the residential amenity area may be enclosed common space.

3. Parking areas, driveways, and pedestrian access to building entrances, except for pedestrian access meeting the Seattle Building Code, Chapter 11 -- Accessibility, do not qualify as residential amenity areas.

4. Swimming pools may be counted toward meeting the residential amenity requirement.

5. Common amenity areas shall have a minimum horizontal dimension of at least 10 feet, and no common amenity area may be less than 250 square feet in size.

6. Rooftop areas excluded because they are near minor communication utilities and accessory communication devices, pursuant to subsection 23.57.011.C, do not qualify as residential amenity areas.

7. Outdoor areas qualify as common residential amenity area if the surface of the area is permeable and is landscaped with grass, ground cover, bushes and/or trees; provided that patios, paved areas designed for recreation, and pedestrian access that meet the Washington State Rules and Regulations for Barrier-Free Design, shall also be considered common residential amenity area.

~~((C))~~F. No residential amenity area is required for an additional dwelling unit added to ~~an~~ single family structure existing as of 1982, or a multifamily structure existing as of October 10, 2001.

Committee direction on residential amenity area requirements:

3. Green Factor Landscaping Requirement

Current LR zones require a landscaped area equivalent to three times the perimeter of lot, street trees, and screening of surface parking lots. The total amount of required landscaping depends on the size of the lot and the configuration of development on the lot. In addition, on lots over 3,000 square feet in size in the current LDT, L1, and L2 zones, the Code requires the equivalent of two caliper inches of tree for every 1,000 square feet of lot area. "Caliper inches" means the diameter of the tree six inches above the ground. The requirement can be met by preserving existing trees or planting new ones. On a typical 5,000 square foot lot, the requirement could result in the planting of five small trees (two inch caliper each), or the preservation of one large tree with at least a ten inch caliper.

We are recommending that the current landscaping requirement in LR zones be replaced by the Green Factor landscaping requirement, which was adopted last year for MR and HR multifamily zones. The Green Factor is a menu of landscaping strategies and corresponding scoring system.

It is designed to improve the amount and quality of urban landscaping, while allowing increased flexibility for property owners and maximizing the ecological function of the landscaping, such as natural cooling and insulation, better air quality, reduced runoff, and habitat.

Under the Green Factor requirement, developers would be allowed to use a variety of landscaping options, including trees and shrubs, pervious paving, green roofs, vegetated walls and rain gardens. Each of these options is weighted differently, with high values or bonuses assigned to the following:

- Vegetation that is visible to pedestrians and passers-by;
- Preservation of existing trees;
- Trees that have larger canopies;
- Landscaping that includes layers of plantings, increasing the environmental benefits of the landscaped area;
- Use of native or drought-tolerant plants;
- Food cultivation; and
- Rainwater harvesting.

Last December, the Council adopted a Green Factor score of .50 for the MR and HR zones. This requires that developers landscape an area roughly equivalent to 50% of the lot (it is not exactly equivalent to 50% because landscaping provided in the right-of-way counts towards the Green Factor requirement). For three reasons, **we recommend that the Green Factor score in LR zones be increased to .60.**

The first reason is that regardless of housing type, the LR zones provide more room for landscaping at grade than do the MR and HR zones, because less land is covered by buildings or driveways. Second, the residential amenity area standard proposed in this memo would require more open space at ground level than is the case in MR and HR zones. This would also make it easier to meet the Green Factor score without having to provide extensive permeable paving, green walls and/or native plants. The third reason is that in Green Factor proposals for other zones, the target has always been a minimum score that will require a generous but reasonable amount of landscaping, with inclusion of a few less conventional features such as permeable paving or rainwater irrigation. DPD's analysis suggests that 0.50 would not be high enough to achieve this result in LR zones.

DPD staff have reviewed the prototypes using the proposed LR zone standards, and found that there is sufficient room to meet a Green Factor score of .60. The analysis shows that on a 5,000 square foot lot, the Green Factor would likely result in the planting on six to nine trees, in addition to the trees planted in the right-of-way. This would be an improvement over the current standards, which would require a maximum of five trees. While the Green Factor does not have a strict requirement for a certain number of trees, the scoring is weighted toward planting and preserving trees because they provide the highest score for the least cost. DPD staff also found that the Green Factor landscaping requirement could be met easily even when the space that must be set aside for storage of solid waste containers is considered.

The proposed amendments to the Land Use Code for FAR and density limits would read as follows, with new wording shown underlined and deleted text ~~crossed out~~. The current landscaping and screening requirements for Lowrise zones (Section 23.45.015) would be deleted completely and is not shown.

23.45.524 Landscaping and screening standards in ~~Midrise and Highrise zones~~

A. Landscaping requirements.

1. Standards. All landscaping provided to meet requirements under this Section 23.45.524 must meet standards promulgated by the Director to provide for the long-term health, viability, and coverage of plantings. The Director may promulgate standards relating to landscaping matters that may include, but are not limited to, the type and size of plants, number of plants, concentration of plants, depths of soil, use of drought-tolerant plants, and access to light and air for plants.

2. Green Factor Requirement

a. Landscaping that achieves a Green Factor score of 0.5 or greater,
determined as set forth in Section 23.86.019, is required for any new development in Midrise and Highrise zones.

b. Landscaping that achieves a Green Factor score of 0.6 or greater,
determined as set forth in Section 23.86.019, is required for any new development in Lowrise zones.

B. Street tree requirements.

1. Street trees are required when any type of development is proposed, except as provided in subsection 23.45.524.B.2 below and Section 23.53.015. Existing street trees shall be retained unless the Director of the Seattle Department of Transportation approves their removal. The Director, in consultation with the Director of the Seattle Department of Transportation, will determine the number, type, and placement of additional street trees to be provided in order to:

- a. improve public safety;
- b. promote compatibility with existing street trees;
- c. match trees to the available space in the planting strip;
- d. maintain and expand the urban forest canopy;
- e. encourage healthy growth through appropriate spacing;
- f. protect utilities; and
- g. allow access to the street, buildings and lot.

2. Exceptions to street tree requirements.

a. If a lot borders an unopened right-of-way, the Director may reduce or waive the street tree requirement along that right-of-way as a Type I decision if, after consultation with the Director of the Seattle Department of Transportation, the Director determines that the right-of-way is unlikely to be opened or improved.

b. Street trees are not required for any of the following:

- 1) establishing, constructing, or modifying single-family dwelling units;
- 2) changing a use or establishing a temporary use or intermittent use;
- 3) expanding a structure by 1,000 square feet or less; or
- 4) expanding surface area parking by less than 10 percent in area and less than 10 percent in number of spaces.

c. When an existing structure is proposed to be expanded by more than 1,000 square feet, one street tree is required for each 500 square feet over the first 1,000 square feet of additional structure, up to the maximum number of trees that would be required for new construction.

3. If it is not feasible to plant street trees in a right-of-way planting strip, a 5 foot setback shall be planted with street trees along the street lot line or landscaping other than trees shall be provided in the planting strip, subject to approval by the Director of the Seattle Department of Transportation. If, according to the Director of the Department of Transportation, a 5 foot setback or landscaped planting strip is not feasible, the Director may reduce or waive this requirement as a Type I decision.

C. Screening of parking.

1. Parking must be screened from direct street view by the front facade of a structure, by garage doors, or by a fence or wall between 4 feet and 6 feet in height. When the fence or wall parallels a street, a minimum 3 foot deep landscaped area is required on the street side of the fence or wall. The screening may not be located within any required sight triangle.

2. The height of the visual barrier created by the screen required in subsection 23.45.524.C.1 shall be measured from the elevation of the curb or street if no curb is present. If the elevation of the lot line is different from the finished elevation of the parking surface, the

difference in elevation may be measured as a portion of the required height of the screen, so long as the screen itself is a minimum of 3 feet in height.

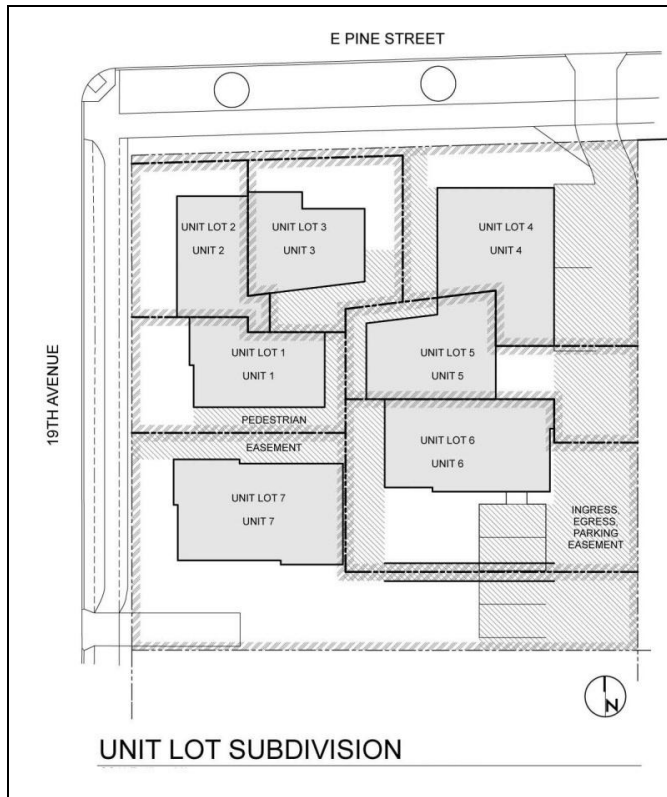
Committee Direction on Landscaping Requirements:

4. Unit Lot Subdivisions

This discussion is intended to provide background on unit lot subdivisions. We do not yet have specific recommendations to present to the Committee.

Unit lot subdivisions are regulated by Section 23.24.045 of the Land Use Code, which is part of the chapter about platting new lots. Unit lot subdivisions can only be used to subdivide land for townhouses, cottage housing developments, and cluster developments in Single Family, Residential Small Lot and LR zones, and for single family dwelling units in LR zones.

A unit lot subdivision allows the original lot (called the “parent lot”) to be subdivided if *as a whole* the development on meets Code standards, even though the unit lots that are created contain development that does not. For example, the individual unit lots may not have required parking located on site, or may not provide required setbacks. Access easements and joint use and maintenance agreements must be executed for the use of common garage or parking areas, common open space, and other similar features. The following drawing shows the concept of parent and unit lot. The parent lot is the almost rectangular shaped lot bounded by E. Pine Street, 19th Avenue, and the shared property lines to the east and south; the unit lots are named individually.



Unit lot subdivisions have been very popular with townhouse developers since the method was added to the Code in 1994. Unit lot subdivisions allow a developer to subdivide a townhouse development and sell each lot on a fee simple basis, rather than as a condominium. This is generally preferred by home buyers, makes it easier for a developer to finance a project, and reduces developer insurance and liability costs. However, unit lot subdivisions also raise a variety of concerns, as outlined below.

4A. Consumer protection

With a condominium, there are articles and bylaws detailing the rights and responsibilities of the individual owners. The bylaws establish an explicit arrangement for maintenance and repair of common areas and shared features such as roofs and walls. Owners have a mechanism for establishing and maintaining reserves for those common expenses, and a board responsible for initiating repairs and responding to complaints. These provisions are rooted in state statutes and are thus consisted among local jurisdictions.

These mechanisms are generally not needed for subdivisions, because each structure on a new lot is independent of its neighbor. However, in a unit lot subdivision, these protective mechanisms are needed, but may not be present. For example, if the roof over one unit in a townhouse structure leaks, it may potentially cause damage to another unit. The Land Use Code (subsection 23.22.062.B) contains provisions for access easements and joint use maintenance agreements to facilitate repairs such as to common roofs, but there is no standard about who should pay for the repairs, no reserves in place to cover the repairs, and no method, other than a neighbor to neighbor agreement and ultimately a lawsuit, to compel an owner of any particular unit to perform or assist in paying for repairs.

DPD staff has heard from some townhouse developers that in addition to the required agreement, they do record covenants, conditions and restrictions (CC&Rs) against the unit lots that detail such rules and responsibilities.

4B. Creating substandard, or “nonconforming” developments

Once the parent lot is subdivided and the new unit lots are created, they immediately become nonconforming to the standards of the Code. The portion of the Land Use Code that authorizes unit lot subdivisions requires that “the facts that the unit lot is not a separate buildable lot, and that additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot, shall be noted on the plat, as recorded with the Director of the King County Department of Records and Elections.” However, buyers of the unit lots may not understand the limitations on the unit lot that they have purchased. For example, they may not realize that once the first unit lot owner builds an addition that maximizes the allowed development of the parent lot, all additions on the other lots are prohibited.

4C. Rebuilding structures on unit lots

Because no building lasts forever, over time the townhouses that have been subdivided through the unit lot process may need to be rebuilt. This will likely create problems for the owner, because the structural systems are interconnected. For example, if a unit is between two others and shares a common roof system, it may be impossible to demolish just the center unit and rebuild it. This is one of the concerns raised by the Planning Commission last year.

4D. Timing of units lots in relation to building construction

Currently, LR zones have environmental review thresholds that range between 4 and 8 units. In addition, multifamily dwellings in L3 and L4 zones with fewer than eight units are not subject to design review. Only building permits are required for the multifamily developments that fall below these thresholds, and public notice is not required when they are proposed or built. However, once the permit for these developments is issued and the building is being constructed, the developer generally applies for the unit lot subdivision, which *does* include public notice and a comment period. This has created confusion and frustration for project neighbors, who are only able to comment on the subdivision of the property rather than the actual project.

While we do not have a recommendation yet about unit lot subdivisions, we are exploring whether it is possible to write the LR zone standards to allow rowhouses and similar housing types to be subdivided and still meet the code requirements on the new individual lots. For example, the Code could allow zero lot line development for rowhouses and certain types of townhouses, so that the new lots would conform to setback requirements. Required parking could be allowed to be off-site within a certain distance of the lot. This appears to be the approach that other cities in Washington take to subdivision of townhouse sites. We think it could simplify the code and lead to the simultaneous review of the building and subdivision permits.